

## LEGISLATIVE RESOLUTION 45CA

## PROPOSED CONSTITUTIONAL AMENDMENT

Passed by the Legislature April 9, 1998

Introduced by Revenue Committee: Warner, 25, Chairperson; Coordsen, 32; Hartnett, 45; Kristensen, 37; Landis, 46; Schellpeper, 18; Wickersham, 49; Will, 8; and Schimek, 27

THE MEMBERS OF THE NINETY-FIFTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 1998 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article VIII, section 1:

VIII-1 "The necessary revenue of the state and its governmental subdivisions shall be raised by taxation in such manner as the Legislature may direct. Notwithstanding Article I, section 16, Article III, section 18, or Article VII, section 4, of this Constitution or any other provision of this Constitution to the contrary: (1) Taxes shall be levied by valuation uniformly and proportionately upon all real property and franchises as defined by the Legislature except as otherwise provided in or permitted by this Constitution; (2) tangible personal property, as defined by the Legislature, not exempted by this Constitution or by legislation, shall all be taxed at depreciated cost using the same depreciation method with reasonable class lives, as determined by the Legislature, or shall all be taxed by valuation uniformly and proportionately; (3) the Legislature may provide for a different method of taxing motor vehicles and may also establish a separate class of motor vehicles consisting of those owned and held for resale by motor vehicle dealers which shall be taxed in the manner and to the extent provided by the Legislature and may also establish a separate class for trucks, trailers, semitrailers, truck-tractors, or combinations thereof, consisting of those owned by residents and nonresidents of this state, and operating in interstate commerce, and may provide reciprocal and proportionate taxation of such vehicles. ~~The~~ ~~PROVIDED~~, that such tax proceeds from motor vehicles taxed in each county shall be allocated to the ~~counties, townships, county and the cities, villages, and school districts, and other governmental subdivisions of~~ such county; ~~in the same proportion that the levy of each bears to the total levy of the county on taxable property;~~ (4) the Legislature may provide that agricultural land and horticultural land, as defined by the Legislature, shall constitute a separate and distinct class of property for purposes of taxation and may provide for a different method of taxing agricultural land and horticultural land which results in values that are not uniform and proportionate with all other real property and franchises but which results in values that are uniform and proportionate upon all property within the class of agricultural land and horticultural land; (5) the Legislature may enact laws to provide that the value of land actively devoted to agricultural or horticultural use shall for property tax purposes be that value which such land has for agricultural or horticultural use without regard to any value which such land might have for other purposes or uses; (6) the Legislature may prescribe standards and methods for the determination of the value of real property at uniform and proportionate values; (7) in furtherance of the purposes for which such a law of the United States has been adopted, whenever there exists a law of the United States which is intended to protect a specifically designated type, use, user, or owner of property or franchise from discriminatory state or local taxation, such property or franchise shall constitute a separate class of property or franchise under the laws of the State of Nebraska, and such property or franchise may not be taken into consideration in determining whether taxes are levied by valuation uniformly or proportionately upon any property or franchise, and the Legislature may enact laws which statutorily recognize such class and which tax or exempt from taxation such class of property or franchise in such manner as it determines; and (8) the Legislature may provide that livestock shall constitute a separate and distinct class of property for purposes of taxation and may further provide for reciprocal and proportionate taxation of livestock located in this state for only part of a year. Each actual property tax rate levied for a governmental subdivision shall be the same for all classes of taxed property and franchises. Taxes uniform as to class of property or the ownership or use thereof may be levied by valuation or otherwise upon classes of intangible

property as the Legislature may determine, and such intangible property held in trust or otherwise for the purpose of funding pension, profit-sharing, or other employee benefit plans as defined by the Legislature may be declared exempt from taxation. Taxes other than property taxes may be authorized by law. Existing revenue laws shall continue in effect until changed by the Legislature."

Sec. 2. At the general election in November 1998 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article XV, section 18:

XV-18 "(1) The state or any local government may exercise any of its powers or perform any of its functions, including financing the same, jointly or in cooperation with any other governmental entity or entities, either within or without the state, except as the Legislature shall provide otherwise by law.

(2) The Legislature may provide for the merger or consolidation of counties or other local governments. No merger or consolidation of municipalities or counties shall occur without the approval of a majority of the people voting in each municipality or county to be merged or consolidated as provided by law. If the proposal is a merger or consolidation of one or more municipalities with one or more counties, the vote shall be tabulated in each municipality in the county or counties separately from the areas of the county or counties outside the boundaries of the municipalities. If the merger or consolidation is not approved by a majority of voters voting in the election in a municipality proposed to be merged or consolidated or the areas of the county or counties outside the boundaries of such municipality or municipalities, the proposed merger or consolidation shall be deemed rejected. Any merger or consolidation of local governments may be initiated by petition as provided by law. Annexation shall not be considered a merger or consolidation for purposes of this section. If the Legislature provides for the merger or consolidation of one or more municipalities with one or more counties, the Legislature shall provide for the reversal of the merger or consolidation. No such reversal shall occur without voter approval. The vote shall be tabulated in each municipality which is proposed to be created by the reversal separately from the areas outside the boundaries of the proposed municipalities. If the reversal is not approved by a majority of voters voting in the election in the area within the boundaries of any proposed municipality or the areas outside the proposed municipalities, the reversal shall be deemed rejected."

Sec. 3. At the general election in November 1998 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article VIII, section 2:

VIII-2 "Notwithstanding Article I, section 16, Article III, section 18, or Article VIII, section 1 or 4, of this Constitution or any other provision of this Constitution to the contrary: (1) The property of the state and its governmental subdivisions shall constitute a separate class of property and shall be exempt from taxation to the extent such property is used by the state or governmental subdivision for public purposes authorized to the state or governmental subdivision by this Constitution or the Legislature. To the extent such property is not used for the authorized public purposes, the Legislature may classify such property, exempt such classes, and impose or authorize some or all of such property to be subject to property taxes or payments in lieu of property taxes except as provided by law; (2) the Legislature by general law may classify and exempt from taxation property owned by and used exclusively for agricultural and horticultural societies and property owned and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not owned or used for financial gain or profit to either the owner or user; (3) household goods and personal effects, as defined by law, may be exempted from taxation in whole or in part, as may be provided by general law, and the Legislature may prescribe a formula for the determination of value of household goods and personal effects; (4) the Legislature by general law may provide that the increased value of land by reason of shade or ornamental trees planted along the highway shall not be taken into account in the assessment of such land; (5) the Legislature, by general law and upon any terms, conditions, and restrictions it prescribes, may provide that the increased value of real property resulting from improvements designed primarily for energy conservation may be exempt from taxation; (6) the value of a home substantially contributed by the United States Department of Veterans Affairs for a paraplegic veteran or multiple amputee shall be exempt from taxation during the life of such veteran or until the death or remarriage of his or her surviving spouse; (7) the Legislature

may exempt from an intangible property tax life insurance and life insurance annuity contracts and any payment connected therewith and any right to pension or retirement payments; (8) the Legislature may exempt inventory from taxation; (9) the Legislature may define and classify personal property in such manner as it sees fit, whether by type, use, user, or owner, and may exempt any such class or classes of property from taxation if such exemption is reasonable or may exempt all personal property from taxation; (10) no property shall be exempt from taxation except as permitted by or as provided in this Constitution; and (11) the Legislature may by general law provide that a portion of the value of any residence actually occupied as a homestead by any classification of owners as determined by the Legislature shall be exempt from taxation."

Sec. 4. At the general election in November 1998 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article III, section 18, Article VIII, sections 1, 4, and 6, Article IX, section 4, Article XI, section 1, and Article XVII, section 4, and repeal Article IX, section 5:

III-18 "The Legislature shall not pass local or special laws in any of the following cases, that is to say:

- For granting divorces.
- Changing the names of persons or places.
- Laying out, opening, altering, and working roads or highways.
- Vacating roads, ~~Town~~ plats, streets, alleys, and public grounds.
- Locating or changing County seats.
- Regulating County and ~~Township~~ offices.
- Regulating the practice of Courts of Justice.
- Regulating the jurisdiction and duties of Justices of the Peace, Police Magistrates, and Constables.
- Providing for changes of venue in civil and criminal cases.
- Incorporating Cities, ~~Towns~~ and Villages, or changing or amending the charter of any ~~Town~~ City or Village.
- Providing for the election of Officers in ~~Townships~~, ~~incorporated Towns or Cities~~.
- Summoning or empaneling Grand or Petit Juries.
- Providing for the bonding of cities, ~~towns~~, precincts, school districts, or other municipalities.
- Providing for the management of Public Schools.
- The opening and conducting of any election, or designating the place of voting.
- The sale or mortgage of real estate belonging to minors, or others under disability.
- The protection of game or fish.
- Chartering or licensing ferries, or toll bridges, remitting fines, penalties, or forfeitures, creating, increasing, and decreasing fees, percentage, or allowances of public officers, during the term for which ~~said~~ the officers are elected or appointed.
- Changing the law of descent.
- Granting to any corporation, association, or individually the right to lay down railroad tracks, or amending existing charters for such purpose.
- Granting to any corporation, association, or individual any special or exclusive privileges, immunity, or franchise whatever; ~~PROVIDED, except~~ that notwithstanding any other provisions of this Constitution, the Legislature shall have authority to separately define and classify loans and installment sales, to establish maximum rates within classifications of loans or installment sales which it establishes, and to regulate with respect thereto. In all other cases where a general law can be made applicable, no special law shall be enacted."

VIII-1 "The necessary revenue of the state and its governmental subdivisions shall be raised by taxation in such manner as the Legislature may direct. Notwithstanding Article I, section 16, Article III, section 18, or Article VIII, section 4, of this Constitution or any other provision of this Constitution to the contrary: (1) Taxes shall be levied by valuation uniformly and proportionately upon all real property and franchises as defined by the Legislature except as otherwise provided in or permitted by this Constitution; (2) tangible personal property, as defined by the Legislature, not exempted by this Constitution or by legislation, shall all be taxed at depreciated cost using the same depreciation method with reasonable class lives, as determined by the Legislature, or shall all be taxed by valuation uniformly and proportionately; (3) the Legislature may provide for a different method of taxing motor vehicles and may also establish a separate class of motor vehicles consisting of those owned and held for resale by motor vehicle

dealers which shall be taxed in the manner and to the extent provided by the Legislature and may also establish a separate class for trucks, trailers, semitrailers, truck-tractors, or combinations thereof, consisting of those owned by residents and nonresidents of this state, and operating in interstate commerce, and may provide reciprocal and proportionate taxation of such vehicles; PROVIDED, that such tax proceeds from motor vehicles taxed in each county shall be allocated to the counties, ~~townships~~, cities, villages, school districts, and other governmental subdivisions of such county in the same proportion that the levy of each bears to the total levy of the county on taxable property; (4) the Legislature may provide that agricultural land and horticultural land, as defined by the Legislature, shall constitute a separate and distinct class of property for purposes of taxation and may provide for a different method of taxing agricultural land and horticultural land which results in values that are not uniform and proportionate with all other real property and franchises but which results in values that are uniform and proportionate upon all property within the class of agricultural land and horticultural land; (5) the Legislature may enact laws to provide that the value of land actively devoted to agricultural or horticultural use shall for property tax purposes be that value which such land has for agricultural or horticultural use without regard to any value which such land might have for other purposes or uses; (6) the Legislature may prescribe standards and methods for the determination of the value of real property at uniform and proportionate values; (7) in furtherance of the purposes for which such a law of the United States has been adopted, whenever there exists a law of the United States which is intended to protect a specifically designated type, use, user, or owner of property or franchise from discriminatory state or local taxation, such property or franchise shall constitute a separate class of property or franchise under the laws of the State of Nebraska, and such property or franchise may not be taken into consideration in determining whether taxes are levied by valuation uniformly or proportionately upon any property or franchise, and the Legislature may enact laws which statutorily recognize such class and which tax or exempt from taxation such class of property or franchise in such manner as it determines; and (8) the Legislature may provide that livestock shall constitute a separate and distinct class of property for purposes of taxation and may further provide for reciprocal and proportionate taxation of livestock located in this state for only part of a year. Each actual property tax rate levied for a governmental subdivision shall be the same for all classes of taxed property and franchises. Taxes uniform as to class of property or the ownership or use thereof may be levied by valuation or otherwise upon classes of intangible property as the Legislature may determine, and such intangible property held in trust or otherwise for the purpose of funding pension, profit-sharing, or other employee benefit plans as defined by the Legislature may be declared exempt from taxation. Taxes other than property taxes may be authorized by law. Existing revenue laws shall continue in effect until changed by the Legislature."

VIII-4 "Except as to tax and assessment charges against real property remaining delinquent and unpaid for a period of fifteen years or longer, the Legislature shall have no power to release or discharge any county, city, ~~township~~, ~~town~~, or district whatever, or the inhabitants thereof, or any corporation, or the property therein, from their or its proportionate share of taxes to be levied for state purposes, or due any municipal corporation, nor shall commutation for such taxes be authorized in any form whatever; PROVIDED, except that the Legislature may provide by law for the payment or cancellation of taxes or assessments against real estate remaining unpaid against real estate owned or acquired by the state or its governmental subdivisions."

VIII-6 "The Legislature may vest the corporate authorities of cities, ~~towns~~ and villages, with power to make local improvements, including facilities for providing off-street parking for vehicles, by special assessments or by special taxation of property benefited, and to redetermine and reallocate from time to time the benefits arising from the acquisition of such off-street parking facilities, and the Legislature may vest the corporate authorities of cities and villages with power to levy special assessments for the maintenance, repair, and reconstruction of such off-street parking facilities. For all other corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes, but such taxes shall be uniform in respect to persons and property within the jurisdiction of the body imposing the same, except that cities and villages may be empowered by the Legislature to assess and collect separate and additional taxes within off-street parking districts created by and within any city or village on such terms as the Legislature may prescribe."

IX-4 "The Legislature shall provide by law for the election of such county ~~and township~~ officers as may be necessary and for the consolidation of county offices for two or more counties. Each ~~PROVIDED~~, that each of the counties affected may disapprove such consolidation by a majority vote in each of such counties."

XI-1 "No city, county, ~~town~~, precinct, municipality, or other ~~sub-division~~ subdivision of the state, shall ever become a subscriber to the capital stock, or owner of such stock, or any portion or interest therein of any railroad, ~~or~~ private corporation, or association."

XVII-4 "The general election of this state shall be held on the Tuesday succeeding the first Monday of November in the year 1914 and every two years thereafter. All state, district, county, precinct, ~~township~~ and other officers, by the constitution or laws made elective by the people, except school district officers, and municipal officers in cities ~~and~~ villages, ~~and~~ ~~towns~~, shall be elected at a general election to be held as aforesaid. An incumbent of any office shall hold over until his or her successor is duly elected and qualified."

"Article IX, section 5, of the Constitution of Nebraska, is repealed."

Sec. 5. The proposed amendments shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to change a restriction on allocation of proceeds from motor vehicle taxes.

For

Against".

"A constitutional amendment to authorize legislation relating to mergers and consolidations by local governments.

For

Against".

"A constitutional amendment to provide that property of the state and its governmental subdivisions is exempt from taxation to the extent such property is used for public purposes and to authorize classification and taxation of property not used for authorized public purposes.

For

Against".

"A constitutional amendment to repeal and eliminate provisions dealing with township organization and towns.

For

Against".